

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

WILLARD BENDER, DON LAMPE,
CAROLYN CONNER, JAMES TAYLOR,
ROSE ANN ROHR and ROGER
SMOKER, as individuals, on behalf of
themselves and all persons similarly
situated,

Case No.: 1:06-cv-0113-RJJ

Hon. Robert J. Jonker
United States District Judge

Plaintiffs,

v.

NEWELL WINDOW FURNISHINGS,
INC., KIRSCH DIVISION, NEWELL
OPERATING COMPANY, INC., and
NEWELL RUBBERMAID HEALTH AND
WELFARE PROGRAM 506,

Defendants.

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**PLAINTIFFS' FIRST APPLICATION AND
MOTION FOR ATTORNEYS' FEES AND COSTS**

Plaintiffs' counsel, Pinsky, Smith, Fayette & Kennedy, LLP, move for an award of attorneys' fees under the Employee Retirement Income Security Act, 29 USC §1132(g)(1).

In support, Plaintiffs' counsel states:

1. Under ERISA, an award of attorneys' fees is discretionary with the Court. 29 USC §1132(g)(1).

2. Based upon the factors set forth in Wells v. United Steel, 76 F.3d 731 (6th Cir. 1996), an award of attorneys' fees for Plaintiffs' counsel is appropriate in this case.

3. Plaintiffs' law firm has spent 1828.75 hours in attorney services through March 30, 2011. Litigation costs have been \$15,245.40.

4. Plaintiffs seek attorneys' fees in the amount of \$425 per hour for senior partner and lead counsel Michael L. Fayette, \$425 per hour for senior partner H. Rhett Pinsky, and \$375 per hour for attorney Pamela K. Bratt and \$75 for paralegal.

5. This Motion is supported by the Affidavit of Michael L. Fayette (Exhibit 1) and the attached Brief in Support.

WHEREFORE, Plaintiffs' counsel respectfully requests that this Honorable Court grant this motion for attorneys' fees and award them \$751,868.75 in attorneys fees and \$15,245.40 in costs for a total award of \$767,114.50.

The undersigned has requested Defendants' concurrence under Local Rule 7.1(d), but has not received the same.

Dated: March 30, 2011

PINSKY, SMITH, FAYETTE & KENNEDY, LLP
Attorneys for Plaintiffs

By: /s/ Michael L. Fayette
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